IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 809 of 1983

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MINOR JAYASHRIBEN B SANGHVI & 4 - Appellant(s)
Versus
HASANBHAI M MUSALMAN & 5 - Defendant(s)

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Appearance :
MR ARUN H MEHTA for Appellant(s) : 1 - 5.
MS ARCHANA ACHARYA ON BEHALF OF MR SB VAKIL for Respondent Nos.3,4,5.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 26/06/2007

ORAL JUDGMENT

1. Mr.Arun H. Mehta, learned counsel for the appellants and Ms.Archana Acharya, under the authority of Mr.S.B. Vakil, learned senior counsel for the respondent Nos.3, 4 and

5. None for others, though served.

2. The appellants – claimants, being partly aggrieved by the impugned Award dtd.31/8/1982 passed by the Motor Accident Claims Tribunal (Auxi,), Surendranagar in Motor Accident Claim Petition No.224 of 1980, are before this Court with a submission that the amount awarded by the learned tribunal suffers with approach on the lower side and the amount deserves to be enhanced.

3. As the original non-claimants have not challenged their liability, nor have filed any Cross Appeal or Cross Objections, this Court is not required to consider all such aspects, which have attained finality.

4. Mr.Mehta, learned counsel for the appellants submits that if the total emoluments of the deceased was Rs.2600=00 p.m. and according to the findings of the tribunal, the support of the family was of Rs.1600=00 p.m., then, after taking into consideration the future prospects of the deceased, his future salary if was to have some hike, then the family support from Rs.1600=00 would be increased and would go upto Rs.2200=00 or more. He submits that if on basic salary of Rs.1600, the deceased could draw Rs.2600=00, then, on the future basic salary of Rs.3000=00, he could have earned Rs.4500=00. He

submits that taking a moderate view, the salary of the deceased could be assessed at Rs.3500=00, out of which even if Rs.1300=00 is deducted as personal expenses of the deceased, the claimants would be entitled to Rs.2200=00 p.m. He also submits that application of multiplier of 12 is also on the lower side.

5. Ms.Archana Acharya, learned counsel for the respondent Nos.3, 4 and 5 submits that the learned tribunal was justified in estimating the salary and support to the family. She submits that there is no scope for any interference.

6. A perusal of paragraph No.20 of the impugned judgment would show that the tribunal had held that the basic salary of the deceased was Rs.1850=00 and after all the deductions, his net emoluments were Rs.2650=00. The tribunal also held that the deceased was contributing at least Rs.1600=00 out of Rs.2600=00. That was one part of the finding, at the same time, the tribunal, finding that the future prospects would be better, again held that even in the future, despite the hike in the salary, the dependency would continue to be Rs.1600=00.

7. In the opinion of this Court, if the future prospects, looking to the meritorious career of the deceased, are

taken into consideration, then, his future salary can safely be assessed at Rs.3500=00. Out of the said amount, the deceased, in future, could have spent some money on his own self and on the family, his personal expenses if are taken as Rs.1300=00 p.m., then, in the considered opinion of this Court, family support could be Rs.2200=00 p.m. or it would be Rs.26,400=00 per year.

8. Though Mr.Arun Mehta, learned counsel for the appellants – claimants submits that the multiplier applied by the tribunal was on the lower side, but, in the opinion of this Court, looking to the age of the deceased, which was 42 years, the multiplier of 12 was reasonable.

9. Applying multiplier of 12 to the yearly dependency of Rs.26,400=00, I hold that the total dependency / compensation towards the loss of the future earning would be Rs.3,16,800=00. In addition to the said amount, the appellants - claimants would be entitled to other amounts which the tribunal had already awarded in their favour. Under the head of loss of future income, the tribunal has awarded a sum of Rs.2,30,400=00. In accordance with the findings of this Court, appellant - claimants would be entitled to an additional amount of Rs.88,400=00 with interest at the rate of 6% per annum

from the date of claim petition till the date of recovery in accordance with the proportionate liability as decided by the learned tribunal.

10. The appeal to the extent indicated above is allowed. No costs.

(R.S. GARG, J.)

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